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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/029,684	12/20/2001	Khiem Le	NC17077C1	4228
30973	7590	08/18/2005		
SCHEEF & STONE, L.L.P. 5956 SHERRY LANE SUITE 1400 DALLAS, TX 75225				
			EXAMINER TON, DANG T	
			ART UNIT 2666	PAPER NUMBER

DATE MAILED: 08/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/029,684

Applicant(s)

LE, KHIEM

Examiner

DANG T. TON

Art Unit

2666

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 119-129 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 119-129 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Art Unit: 2666

1. The finality of office action mailed on 4/29/2005 is hereby withdrawn.

2. The indicated allowability of claims 19-29 is withdrawn in view of the newly discovered reference(s) to LE(6,594,276).

Rejections based on the newly cited reference(s) follow.

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 119-129 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-9 of U.S. Patent No. 6,466,585.

Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following formalities:

For claims 119-129, The claims 1-9 of U.S. Patent No. 6,466,585 disclose

an apparatus for a radio communication system a wireless gateway, the radio communication system operable to communicate multimedia information with a first multimedia device and a second multimedia device, for providing the multimedia information transmitted by the first multimedia device upon a special channel in radio-link format to the second multimedia device, the apparatus comprising:

a real-time media source at which the multimedia information is sourced;

a requester coupled to the real-time media source to receive indications of when the multimedia information is to be communicated by the first multimedia device, the requester for requesting allocation of the special channel upon which to communicate the real-time media,

a control plane information generator coupled to receive indications of the multimedia information, the control plane information generator for generating control plane information, the control plane information controlling a manner by which to provide the multimedia information, once converted into packet-data form, to the second multimedia device, and

a format converter coupled to receive indications of the multimedia information in the radio-link format, the format converter for converting the multimedia information into the packet-data form, the multimedia information, once converted into the packet-data form provided to the second multimedia device in the manner determined by the control plane information.

wherein the requester requests the allocation of the special channel with the control plane information generator.

wherein the control plane information generator comprises a real-time manager, the real-time manager further for exchanging signaling with the requester pursuant to the requests for the allocation of the special channel.

wherein the first multimedia device is defined in terms of logical layers, wherein the real-time media source is formed at a first logical layer and the requester is formed at a second logical layer, the first logical layer of a higher logical-layer level than the second logical layer.

wherein the first logical layer comprises an application signaling layer.

wherein the second logical layer comprises an adaptation layer.

comprising a logical layer, the third logical layer of a lower logical-layer level than the second logical layer.

wherein the third logical layer comprises a bearer signaling layer.

multimedia information between a first multimedia device and a second multimedia device, for providing the multimedia information transmitted by the first multimedia device upon a special channel in radio-link format to the second multimedia device, the wireless gateway comprising:

a real-time media source at which the multimedia information is sourced;

a requester coupled to the real-time media source to receive indications of when the multimedia information is to be communicated by the first multimedia device, the requester for requesting with the control plane information generator allocation of the special channel upon which to communicate the real-time media, and

a control plane information generator coupled to receive indications of the multimedia information ., the control plane information generator for generating control plane information the control plane information controlling in manner by which to provide the multimedia information once converted into packet data form to the secondly multimedia device ; and

a format converter coupled to receive indications of the multimedia information in the radio-link format, the format converter for converting the multimedia information into the packet-data form, the multimedia information, once converted into the packet-data form provided to the second multimedia device in the manner determined by the control plane information.

wherein the control plane information generator comprises a real-time manager, the real-time manager further for exchanging signaling with the requester pursuant to the requests for the allocation of the special channel.

wherein the first multimedia device is defined in terms of logical layers, wherein the real-time media source is formed at a first logical layer and the requester is formed at a second logical layer, the first logical layer of a higher logical-layer level than the second logical layer.

NOTE: SEE claims 1-9 of the patent.

Applicant's claims 119-129 merely broaden the scope of the patent number 6,466,585 claims 1-9 eliminating the terms "a detector for detecting control plane information associated with the packet formatted data " from the claim 1 the patent. It has been held that the omission of an element and its function is an

Art Unit: 2666

obvious expedient if the remaining elements perform the same function as before. In re karlson, 136 USPQ 184 (CCPA). Also note Ex Parte Raine, 168 USPQ 375 (bd. App. 1969); omission of a reference element whose function is not need would be obvious to one skilled in the art.

4. Applicant's arguments with respect to claims 119-129 have been considered but are moot in view of the new ground(s) of rejection.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANG T. TON whose telephone number is 571-272-3171. The examiner can normally be reached on MON-WED, 5:30 AM-6:00 PM and Thur 5:30-9:30 A.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, RAO SEEMA can be reached on 571-272-3174. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

D. Ton



DANG TON
PRIMARY EXAMINER